

VZCZCXRO9264
PP RUEHPA
DE RUEHUJA #2149 3041602
ZNY CCCCC ZZH
P 301602Z OCT 08
FM AMEMBASSY ABUJA
TO RUEHC/SECSTATE WASHDC PRIORITY 4333
INFO RUEHZK/ECOWAS COLLECTIVE
RUEHSA/AMEMBASSY PRETORIA 1477
RUEHYD/AMEMBASSY YAOUNDE 0470
RUEHOS/AMCONSUL LAGOS 0186
RHMFISS/HQ USAFRICOM STUTTGART GE
RHEBAAA/DEPT OF ENERGY WASHDC
RHEHNSC/NSC WASHINGTON DC
RUEAIIA/CIA WASHINGTON DC
RUEKDIA/DIA WASHDC
RHMFISS/HQ USEUCOM VAIHINGEN GE
RUZEJAA/JAC MOLESWORTH RAF MOLESWORTH UK

C O N F I D E N T I A L ABUJA 002149

SIPDIS

DEPT FOR AF/W, INR/AA

E.O. 12958: DECL: 10/28/2018

TAGS: [PGOV](#) [PINR](#) [KCOR](#) [NI](#)

SUBJECT: PRESIDENT OF NIGERIAN APPEALS COURT: NO MISCONDUCT
IN MARK CASE

REF: ABUJA 780

Classified By: Political Counselor Walter N.S. Pflaumer for reasons 1.4
. (b & d).

11. (C) Justice Umaru Abdullahi, President of the Federal Court of Appeal, told PolOff on October 30 that the committee of the National Judicial Council has found no evidence of misconduct by Appeals Court Judge Zainab Bulchukwa. Chief Justice Idris Legbo Kutigi requested the National Judicial Council, the disciplinary body for Nigerian judges, to examine Bulchukwa's behavior based on a petition received by the Supreme Court. Bulchukwa presided over the election tribunal appeals of Senate President David Mark, Kebbi Governor Usman Dakin-Gari (President Yar'Adua's son-in-law), and Sokoto gubernatorial candidate Attahiru Bafarawa. Bulchukwa's rulings came under scrutiny when she issued what appeared to be contradictory rulings just one day apart on April 10 and April 11, 2008 in the Kebbi and Sokoto cases, respectively. In each case, the PDP candidate (Dakin-Gari in Kebbi and Aliyu Wamakko in Sokoto) was not/not registered as a member of the PDP party (a legal requirement under the Electoral Act) prior to the deadline issued by the Independent National Electoral Commission (INEC) for candidate registration. In the Kebbi case Bulchukwa found lack of registered party membership was not grounds to nullify Dakin-Gari's election, whereas in the Sokoto case she nullified Wamakko's declared victory based on his lack of registered membership (reftel). Abdullahi confirmed that complaints were brought to the Council, but said that insufficient evidence had been presented to the panel to suggest misconduct. He said that an announcement will be made soon to that effect, but also noted that if new and compelling evidence were presented to the Council, it would review it. He offered no clarification as to how Bulchukwa could have reached the two seemingly contradictory rulings in the Kebbi and Sokoto cases.

12. (C) COMMENT: The conclusion of the panel would secure Mark's position as Senate President and officially closes the book on his election. Under the Nigerian constitution, the Senate President is third in protocol rank, and would become acting President if both the Presidency and Vice Presidency were vacant. In the (we believe unlikely) event that the Supreme Court were to overturn the 2007 presidential elections, Mark would thus become interim President and have the task of organizing new Presidential elections within three months. END COMMENT.

13. (U) This cable coordinated with Consulate Lagos.
Sanders